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SUPREME COURT OF ALABAMA

OCTOBER TERM, 2008-2009

1070257

Henri-Duval Winery, L.L.C.

v.

Alabama Alcoholic Beverage Control Board et al.

Appeal from Montgomery Circuit Court
(CV-01-703)

BOLIN, Justice.

AFFIRMED. NO OPINION.

See Rule 53(a)(1) and (a)(2)(F), Ala. R. App. P.

Stuart, Smith, Parker, and Shaw, JJ., concur.

1070257

Lyons, Woodall, and Murdock, JJ., concur in part and dissent in part.

Cobb, C.J., recuses herself.

1070257

LYONS, Justice (concurring in part and dissenting in part).

I concur in the affirmance of the trial court's judgment in this case in all respects except for the affirmance of the trial court's disallowance of an attorney fee for Henri-Duval Winery, L.L.C. As to this issue, I join Justice Murdock's special writing.

1070257

MURDOCK, Justice (concurring in part and dissenting in part).

I concur in the affirmance of the trial court's judgment on remand in this case, see Alabama Alcoholic Beverage Control Board v. Henri-Duval Winery, L.L.C., 890 So. 2d 70 (Ala. 2004), except to the extent that the trial court determined that Henri-Duval Winery, L.L.C., has not been a "prevailing party" for purposes of recovering an attorney fee pursuant to 42 U.S.C. § 1988. See, e.g., Grier v. Goetz, 421 F. Supp. 2d 1061, 1068-69 (M.D. Tenn. 2006) (discussing relevant United States Supreme Court precedents); James v. Alabama Coal. for Equity, Inc., 713 So. 2d 937, 947 (Ala. 1997) (quoting Texas State Teachers' Ass'n v. Garland Indep. Sch. Dist., 489 U.S. 782, 789 (1989)).

Lyons and Woodall, JJ., concur.